

Posted 9/12/97

3:20 p.m.

Order 97-9-14

QA
27024



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

SERVED SEP 18 1997

Issued by the Department of Transportation
on the 12th day of September, 1997

Essential Air Service at

**MASSENA, NEW YORK
OGDENSBURG, NEW YORK
WATERTOWN, NEW YORK**

under 49 U.S.C. 41731, *et seq.*

**DOCKET OST-97-2842 - 2
(47439)**

**ORDER TENTATIVELY SELECTING CARRIER
AND SETTING SUBSIDY RATE**

Summary

By this order, the Department is tentatively selecting Mesa Airlines, Inc., d/b/a USAir Express (Mesa), to provide essential air service at Massena, Ogdensburg and Watertown, New York, for a two-year period, at an annual subsidy of \$799,114.

Background

By Order 93-8-35, August 24, 1993, the Department selected Chautauqua Airlines, a USAir Express carrier, to provide essential air service at Massena, Ogdensburg and Watertown, New York. ¹ Chautauqua was to provide service to Syracuse for all three communities at annual subsidy rates of \$850,856 for the first year and \$616,996 for the second year. On May 8, 1994, Mesa Airlines, d/b/a Liberty Express, also a USAir Express carrier, took over the routes from Chautauqua under the same terms and conditions. In May 1995, with the concurrence of the communities and the Department, Mesa altered its service pattern by changing the hub for each city from Syracuse to Pittsburgh. Mesa's then-current rate term at these points expired on July 31, 1995.

By Order 95-9-21, September 21, 1995, the Department extended Mesa's second-year rate at Massena, Ogdensburg and Watertown, for the period August 1, 1995, until further Department action. Under the terms of Order 95-9-21, Mesa was to provide all three communities with three round trips each weekday and over each weekend period to Pittsburgh with 19-seat Beech 1900 aircraft. Service between Watertown and Pittsburgh was to be nonstop. Of the six segments each for Massena and Ogdensburg,

¹ See Appendix A for a map.

14 bcp

up to three were permitted to be two-stop; the remaining three were to be one-stop or nonstop.

Because of Congressional reductions in funding for the essential air service program, however, the Department subsequently implemented program-wide reductions in subsidy payments and allowed for reduced service levels as of November 27, 1995.² For Mesa's service at Massena, Ogdensburg and Watertown, we reduced the level of subsidized service from eighteen to ten round trips a week, consistent with our actions throughout the program, except in Alaska, and reduced Mesa's annual subsidy to \$397,619.

Congress has now provided a funding level of \$50 million for the essential air service program beginning in fiscal year 1998--i.e. beginning October 1, 1997. These funds are provided by the Rural Air Service Survival Act, which was part of the Federal Aviation Administration reauthorization legislation enacted in 1996. The Department intends to use these funds to restore compliance with the statutory essential air service requirements in the Airport and Airway Safety and Capacity Expansion Act of 1987. Consequently, we requested that Mesa submit a proposal contemplating increased service at the three communities.

Mesa's Proposal

Mesa submitted a proposal in response to our request that would provide each community with the level of service that existed before the November 1995 program-wide service/subsidy reductions. As a result of discussions with Department staff, the carrier has agreed to increase its service at Massena, Ogdensburg and Watertown to three round trips each weekday and over each weekend period between each community and Pittsburgh. Service between Watertown and Pittsburgh is to be nonstop; of the six flight segments each service day between Massena and Pittsburgh and between Ogdensburg and Pittsburgh, up to three may be two-stop, with the balance to be nonstop or one-stop. Service is to be with 19-seat Beech 1900 aircraft at an annual subsidy rate of \$799,114. The proposed service/subsidy levels would be effective for a two-year period from October 1, 1997, or when Mesa implements the new service pattern, whichever is later, through September 30, 1999.

Community Comments

We have received comments from the Town of Massena and the New York State Department of Transportation specifically addressing the issue of essential air service at Massena, Ogdensburg and Watertown. The Town of Massena recently sponsored two meetings, one on August 15 and the other on August 20, to solicit views on the status of air service at these communities. In attendance at the meetings were the Town Supervisor of Massena and representatives from the Ogdensburg Bridge and Port Authority and the New York State Department of

² See Orders 95-11-28, November 17, 1995, and 96-2-1, February 2, 1996.

Transportation. The consensus of the meetings was that service to the Pittsburgh hub was not meeting the needs of the communities and that service to another hub such as Syracuse or Albany should be considered. According to the comments, some passengers find it more convenient to book flights out of Ottawa and Montreal in order to travel to other U.S. destinations. Because travelers must travel to Pittsburgh to connect with other flights, they cannot leave town, conduct business at other New York points, and return the same day. More often, they state, the trip requires as much as three days.

Selection Decision

We have carefully reviewed Mesa's proposal, its recent service history at these three New York communities, and particularly the comments of the communities. We note that many other communities in the Essential Air Service Program have encountered similar problems with same-day business travel after the program-wide cuts in November 1995, and the resulting ten-round-trip-a-week service patterns. We expect that some of the communities' service concerns will be ameliorated with reinstatement of a three-round-trip-a-day, six-day-a-week service pattern.

Consequently, we are here acting immediately to restore the communities' service to the viable levels that existed prior to the program-wide reductions in late 1995. We will therefore tentatively select Mesa to continue providing essential air service at Massena, Ogdensburg and Watertown for an additional two-year period, at the service and subsidy levels set forth above. The rate appears reasonable for the service to be provided and Mesa's service continues to be reliable.³

Nonetheless, we remain mindful of the communities' desire to explore other possibilities, particularly service to a different hub. Although we are tentatively selecting Mesa to continue serving Massena, Ogdensburg and Watertown for an additional two-year period, we would encourage the communities and the incumbent carrier to work together toward any possible improvements in meeting the area's transportation needs. If they can agree upon a service pattern that is operationally feasible and better meets these needs at no additional subsidy cost, either now or at any time during the two-year period, we are prepared to give it serious consideration. For our part, we will solicit additional service proposals and give other carriers the opportunity to offer alternative replacement service. Mesa may also elect to submit another proposal in response to the communities' concerns.

In the meantime, we expect Mesa, community officials, and major businesses to work energetically together to promote the service improvements we are tentatively authorizing. In that regard, we note that we have earmarked a specific dollar amount for local advertising in the carrier's subsidy rate and fully expect the carrier to use this amount as proposed. We would encourage the carrier to consider fare incentives among its market development initiatives. During our next rate-renewal

³ See Appendix D for a calculation of Mesa's subsidy requirements.

review in early 1999, we will review the communities' continuing needs in light of traffic response to the service levels we are authorizing here.

Responses to Tentative Decision and Competing Proposals

We will give interested persons 20 days from the date of service of this order to show cause why we should not make final our tentative decision to reselect Mesa to provide essential air service at Massena, Ogdensburg and Watertown, at the service and subsidy levels discussed above. We expect persons objecting to our tentative decision to support their objections with relevant and material facts. We will not entertain general, vague or unsupported objections.

Carriers interested in filing competing proposals, with or without subsidy requests, should file them within the 20-day period set for objections. At the end of that period, our staff will docket any competing proposals, thereby making them public, and direct each applicant to serve a copy of its proposal on the civic parties and other applicants. We will give full consideration to all proposals that are timely filed.

As we mentioned above, because of program-wide reductions in EAS subsidy payments, which began in November 1995 and continue through fiscal year 1997, subsidy has been limited to supporting no more than ten round trips a week at each EAS community, including Massena, Ogdensburg, and Watertown. As a result, many communities experienced significant declines in traffic and carriers experienced cost inefficiencies in aircraft and personnel utilization as well. With the full fiscal year 1998 funding, we expect to restore viable service at all of the subsidized EAS communities to levels that are commensurate with statutory and program guidelines.⁴

Competing proposals may contemplate service to Pittsburgh, Syracuse, New York City, or any other appropriate hub city, and should address the communities' concerns noted above, specifically the ability to complete business trips in one day, and to be able to make convenient connections to other carriers at the hub for travel onward to other destinations. Service should consist of at least three round trips each service day to the hub and be with aircraft having at least 15 passenger seats.

Carrier Fitness

49 U.S.C. 41738 requires that we find an air carrier fit, willing and able to provide service before we may compensate it for essential air service. We last found Mesa fit to provide scheduled passenger service as a certificated air carrier by Order 97-5-12, May 15, 1997, when we selected it to provide subsidized air service at Oil City/Franklin, Pennsylvania. The Department has routinely monitored the

⁴ 49 U.S.C. 41732(b)(1)(A) specifies that eligible EAS communities are to receive at least two round trips a day, six days a week; and the Department's program guidelines (14 CFR 398.5) contemplate that service will be commensurate with a community's historical traffic and its traffic-generating potential.

carrier's continuing fitness, and no information has come to our attention that would lead us to question its ability to operate in a reliable manner. Mesa continues to have available adequate financial and managerial resources to maintain quality service at the communities at issue here. The Federal Aviation Administration has advised us that the carrier is conducting its operations in accordance with its regulations, and knows of no reason why we should not find that Mesa remains fit. Based on its operating record, we find that the carrier continues to be fit to provide the essential air transportation at issue in this case.

Procedures for Filing Replacement Proposals

For interested carriers unfamiliar with our procedures and recommended form for supplying the necessary information, we have prepared two explanatory documents that we will make available upon request. The first describes the process for handling carrier replacement cases under 49 U.S.C. 41734(f), and discusses in detail the process of requesting proposals, conducting reviews of applicants, and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, a copy of Part 204 of our regulations (14 CFR 204), and schedules setting forth our recommended form for submitting data required for calculating compensation and determining the financial and operational ability of applicants to provide reliable essential air service. (Section 204.4 describes the fitness information required of all applicants for authority to provide essential air service.) Applicant carriers that have already submitted this information in another case need only resubmit it if a substantial change has occurred. However, if there are more recent data or if there have been any changes to the information on file, carriers should provide updates of those information elements. Interested carriers that need to obtain copies of these documents may contact the Office of Aviation Analysis at (202) 366-1053.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁵ Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed

⁵ The regulations applicable to each of these three areas are (1) 49 CFR Part 20, New Restrictions of Lobbying, implementing title 31, United States Code, section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants), implementing the Drug-Free Workplace Act of 1988; and (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

\$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

Community and State Comments

If we receive competing proposals, the communities and state are welcome to submit comments on the proposals at any time. Early in the proceeding, comments on the proposals' strengths and weaknesses would be particularly helpful, and the civic parties may also express a preference for a particular carrier, if they choose. In any event, after conducting rate conferences with all applicants, we will provide a summary of the conference results to the civic parties and ask them to file their final comments.⁶

This order is issued under authority delegated in 49 CFR 1.56(i).

ACCORDINGLY,

1. We tentatively reselect Mesa Airlines, Inc., d/b/a USAir Express, to provide essential air service at Massena, Ogdensburg and Watertown, New York, as described in Appendix C, for the period beginning October 1, 1997, or when Mesa implements the new service pattern, whichever is later, through September 30, 1999;
2. We tentatively set the final rate of compensation for Mesa Airlines for the provision of essential air service at Massena, Ogdensburg and Watertown, as described in Appendix C, for the period from October 1, 1997, or when Mesa implements the new service pattern, whichever is later, through September 30, 1999, payable as follows: for each month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceiling set forth in Appendix C, and shall be determined by multiplying the subsidy-eligible arrivals and departures completed during the month by \$144.74;⁷

⁶ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not normally hold rate conferences. Instead, we rely on the carrier's subsidy-free service as proposed.

⁷ See Appendix D for the calculation of this rate, which assumes the use of the aircraft designated. If the carrier reports a significant number of aircraft substitutions, revision of this rate may be required.

3. We direct Mesa Airlines to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;
4. We find that Mesa Airlines continues to be fit, willing and able to operate as an air carrier and capable of providing essential air service at Massena, Ogdensburg and Watertown, New York;
5. We direct Mesa Airlines and any other interested persons having objections to the selection of Mesa Airlines to provide essential air service as described in ordering paragraph 1 above, at the rate set forth in ordering paragraph 2 above, to file such objections or competing service proposals no later than 20 days from the date of service of this order;⁸
6. If we receive objections or competing proposals within the 20-day period, Mesa Airlines will be compensated at the subsidy rate set forth in ordering paragraph 2 above as a final rate, effective October 1, 1997, or whenever it implements the increased service pattern, whichever is later, until all objections are resolved;
7. We will afford full consideration to the matters and issues raised in any timely and properly filed objections and service proposals before we take further action.⁹ If no objections or competing service proposals are filed, all further procedural steps will be deemed waived and this order shall become effective on the twenty-first day after its service date;
8. Docket OST 97- 2842 shall remain open until further order of the Department; and

⁸ Objections should be filed with the Documentary Services Division, SVC-121.30, Room PL401, Department of Transportation, 400 7th Street, S.W., Washington, DC 20590. Proposals to provide essential air service should be filed with the Chief, EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, at the same address. Questions regarding filings in response to this order may be directed to Dennis J. DeVany at (202) 366-1061.

⁹ Since we are providing for the filing of objections to this order, we will not entertain petitions for reconsideration.

9. We will serve copies of this order on the Mayors and airport managers of Massena, Ogdensburg and Watertown, New York; The Ogdensburg Bridge and Port Authority; The New York State Department of Transportation; the Governor of New York; Mesa Airlines, and the parties listed in Appendix E.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://www.dot.gov/general/orders/aviation.html>
The electronic version may not include some or all of the appendices.*

APPENDIX A



**Historical Enplanements
Massena, Ogdensburg, and Watertown**

	Massena	Ogdensburg	Watertown
1986	3,594	3,562	4,263
1987	4,127	4,588	6,900
1988	4,527	5,046	8,428
1989	4,465	4,373	9,759
1990	4,139	3,739	8,000
1991	5,398	3,768	6,688
1992	6,906	3,279	7,331
1993	6,457	3,068	6,010
1994	7,039	3,451	5,181
1995	5,070	2,611	4,327
1996	2,748	1,054	2,450

Source: RSPA Form 298-C, Schedule A-1

MESA AIRLINES, INC.

D/B/A USAIR EXPRESS

ESSENTIAL AIR SERVICE TO BE PROVIDED AT
MASSENA, OGDENSBURG AND WATERTOWN, NEW YORK

Effective Period: October 1, 1997, or when carrier implements new service pattern, whichever is later, through September 30, 1999

Service:

Watertown: Three nonstop round trips each weekday and over each weekend period to Pittsburgh

Massena and Ogdensburg: Three round trips each weekday and over each weekend period to Pittsburgh. Of the six segments each service day for each community, up to three may be nonstop.

Aircraft: Beech 1900, 19 passenger seats

Timing of Flights: Flights must be well-timed and well-spaced to ensure full compensation.

Subsidy Rate: Per year - \$799,114
Per arrival from or departure to Pittsburgh - \$144.74 ¹

Weekly Compensation Ceiling: \$15,631.92 ²

¹ Annual compensation of \$799,114, divided by the number of departures estimated to be performed annually (5,521 arrivals and departures, calculated by multiplying eighteen arrivals and departures each service day by 313 annual service days--counting each weekend as one service day--and multiplying further by 98 percent completion.

² The subsidy rate for each arrival/departure (\$144.74) multiplied by the number of scheduled subsidy-eligible flights per week (108).

APPENDIX C

Page 2 of 2

Note: The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of these rates, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be assured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this order, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to the agreement do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

Mesa Air Group
Essential Air Service to be Provided at
Massena, Ogdensburg and Watertown, New York
Calculation of Annual Compensation Requirement

Frequency: 3 round trips per service day
 Route: PIT-ART-MSS-OGS-ART-PIT

<u>Passenger Revenue</u>	<u>Fare</u>	<u>Passengers</u>	<u>Revenue</u>
ART-PIT	\$105	7,140	\$749,700
OGS-PIT	\$91	4,080	\$371,280
MSS-PIT	\$99	8,568	\$848,232
		19,788	\$1,969,212
Freight @ 1% of psgr. revenue			\$19,692
Total			\$1,988,904

Direct Operating Expenses (Beech 1900)

Flight Operations	.019788 per ASM ^{1/}	\$285,431
Fuel & Oil	.023227 per ASM	\$335,037
Aircraft	.031900 per ASM	\$460,140
Maintenance	.035300 per ASM	\$509,183
Total		\$1,589,791

Indirect Operating Expenses

Traffic Related	0.0291 per ASM	\$419,751
Departure Related	0.0243 per ASM	\$350,514
Local Advertising	0.01 of revenue	\$19,692
G & A	0.0191 per ASM	\$275,507
Total		\$1,065,465

Total operating expense	\$2,655,255
Operating loss	\$666,351
Profit element @ 5 percent of total operating expense	\$132,763

Compensation requirement	\$799,114
---------------------------------	------------------

Subsidy per passenger: \$40.38

^{1/} ASM's computed as follows:

OGS-MSS: 3 flights x 35 miles x 19 seats x 313 days x .98 =	611,946
MSS-ART: 3 flights x 87 miles x 19 seats x 313 days x .98 =	1,521,124
OGS-ART: 3 flights x 55 miles x 19 seats x 313 days x .98 =	961,630
ART-PIT: 6 flights x 324 miles x 19 seats x 313 days x .98 =	11,329,748
	14,424,448

APPENDIX E

SERVICE LIST FOR THE STATE OF NEW YORK

Acadia Air, Inc.
Amerijet International, Inc.
Business Express, Inc.
Chautauqua Airlines, Inc.
Chester County Aviation, Inc.
Colgan Air
Columbia Aviation, Inc.
Corporate Air, Inc.
Delta Connection
Executive Airlines, Inc.
Gull Aviation, Inc.
Henson Aviation Inc.
Horizon Air, Inc.
HubExpress, Inc.
Hyannis Air Service, Inc.
Jetstream International Airlines, Inc.
Long Island Airlines
Mesa Air Group, Liberty Express Division
Metroflight, Inc.
Midway Airlines, Inc.
Midwest Express Airlines, Inc.
New England Airlines, Inc.
New York Helicopter Corporation
Northeast Express Regional Airlines, Inc.
Northwest Airlink
Omniflight Helicopter Service, Inc.
Pennsylvania Aviation, Inc.
Pennsylvania Commuter Airlines, Inc.
Southern Jersey Airways, Inc.
Spectrum Airlines, Inc.
Travelair, Inc.
Valley Air Services, Inc.

Chester Anderson
Ken Bannon
Sabrina Cranor
Virgil de la Cruz
E.B. Freeman
Edward Harahusk
Robert Hart
A. Edward Jenner
John McFarlane
Eric Nordling
Mark Prange
John Sinisi
Kevin Thomas